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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,535	12/21/2000	Hanh Kim Le	AUS920000742US1	2079
35525	7590	01/03/2005	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			HAQ, NAEEM U	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/747,535

Applicant(s)

LE ET AL.

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 5, 6, 8-10, and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8-10,and13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Response to Amendment***

This action is in response to the Applicants' amendment filed on September 28, 2004. Claims 1, 2, 5, 6, 8-10, and 13-16 are pending and will be considered for examination.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 2, 5, 6, 8-10, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al. (US 6,243,691 B1).**

Referring to claims 1, 5, 9, and 13, Fisher teaches a method and system for generating proxy bids in an electronic auction comprising:

- specifying a minimum increment for bidding on an item (Figure 2; column 5, lines 63-65);
- receiving a bid for said item from a first bidder which is a current high bid for said item (Figure 2);
- identifying a previously recorded proxy bid from a bidder (column 8, line 56 – column 9, line 6);
- generating by said electronic auction an bid which becomes a new high bid for said item utilizing said proxy bid, wherein said another bidder holds

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the new high bid for said item, further wherein said bid equals said bid received from said first bidder by said minimum increment, and wherein said bid equals said proxy bid (column 8, line 56 – column 9, line 6; column 12, lines 33-61).

Fisher does not teach that the proxy bid from a second bidder is greater than the current high bid. However, Fisher teaches that a plurality of bidders are allowed to establish the limit amount of their proxy bids when the bids are initially placed (column 8, lines 56-60). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to allow a bidder to set the limit of the proxy bid to whatever amount the bidder desired (e.g. greater than the current high bid). One of ordinary skill in the art would have been motivated to do so in order to allow the bidder to place a bid that he or she felt was competitive. Fisher does not explicitly teach that the proxy bid from a second bidder is not greater than said current high bid plus said minimum increment. However, Fisher teaches that the proxy bid is equal to the current high bid plus minimum increment (column 8, line 64 – column 9, line 3). The Examiner notes that this reads on the Applicants' claim language because the claim does not preclude the proxy bid from being equal to the current high bid plus the minimum increment. The claim language states only that the proxy bid from a second bidder is "not greater than" said current high bid plus said minimum increment. A proxy bid which is equal to the to the current high bid plus the minimum increment meets this limitation because it is "not greater than" the current high bid plus said minimum increment. Fisher does not teach that the bid is an off-increment bid or that the bid "does not exceed" the first bid plus

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minimum increment or proxy bid. However, as already noted above, Fisher teachings read on these limitations because the claim language does not preclude the new bid from being equal to the first bid plus increment or proxy bid. A bid which is equal to the first bid plus the minimum increment or proxy bid meets this limitation because it "does not exceed" the first bid by said minimum increment or proxy bid.

Referring to claims 2, 6, 8, 10, and 14-16, these claims recite comparing a proposed bid to a proxy bid wherein the proposed bid is equal to a minimum increment plus a current high bid. These claims go on to recite that if proposed bid exceeds the proxy bid then awarding an item to a second bidder for the proxy bid, and if the proposed bid does not exceed the proxy bid then awarding the item to the second bidder for the proposed bid. However, these limitations are inherent in Fisher. Fisher teaches a system and method for conducting proxy bidding for a plurality of bidders. Proxy bidding is inherently designed to allow a bidder to obtain an item for the best possible price up to the proxy bid limit. Therefore, if an auction bid reaches a proxy limit and that bidder has the highest bid then the bidder wins the auction for the proxy bid. However, if the bidder's bid is below the proxy bid and that bidder has the highest bid then the bidder wins the auction for the proposed bid.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 5, 6, 8-10, and 13-16 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (703)-305-3930. The examiner can normally be reached on M-F 8:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn.W. Coggins can be reached on (703)-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Naeem Haq**, Patent Examiner  
Art Unit 3625

December 27, 2004



**HANI M. KAZIMI**  
**PRIMARY EXAMINER**